

United States District Court

NORTHERNDISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

EFRAIN J. ROSA

CRIMINAL COMPLAINT

CASE NUMBER: 07-MJ-312(DEP)

U.S. DISTRICT COURT-N.D. OF N.Y.

FILED
OCT 01 2007
AT _____ O'CLOCK
Lawrence K. Baerman, Clerk-Syracuse

I, Special Agent Emily Vacher, being duly sworn state the following is true and correct to the best of my knowledge and belief:

From in or about February 2007 through in or about September 26, 2007, in Oswego County, in the Northern District of New York, the defendant did:

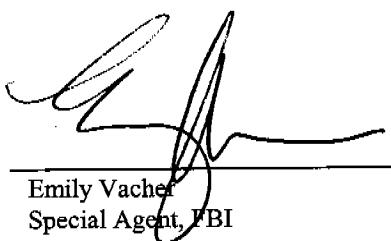
employ, use, persuade, induce, entice or coerce a person under the age of eighteen to engage in sexually explicit conduct, and the lascivious exhibition of the genitals and the pubic area of said minors, for the purpose of producing visual depictions of such conduct, specifically photographs, knowing or having reason to know that such visual depictions were produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means. [3 counts]

in violation of Title 18 United States Code, Section(s) 2251(a)

I further state that I am a Special Agent with the FBI,
and that this complaint is based on the following facts:

See Attachment

Continued on the attached sheet and made a part hereof.



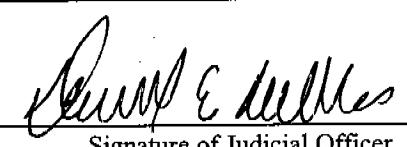
Emily Vacher
Special Agent, FBI

Sworn to before me, and subscribed in my presence,

October 4, 2007 at _____
Date

Hon. David E. Peebles
United States Magistrate Judge
Name and Title of Judicial Officer

Syracuse, New York _____



Signature of Judicial Officer

AFFIDAVIT OF SA EMILY VACHER

I, Emily Vacher, having been first duly sworn, do hereby depose and state as follows:

1. I have been employed as a Special Agent of the FBI since January 16, 2001. I am assigned to the Albany Division, Syracuse Resident Agency. Prior to my assignment to Syracuse in March 2006, I was assigned to the Cyber Division, Cyber Crime Section, Innocent Images Unit at FBI Headquarters. Since joining the FBI, I have investigated violations of federal law, focusing specifically on crimes against children. I am currently investigating federal violations concerning child pornography and the sexual exploitation of children. I have gained experience regarding such crimes through training in seminars, classes, and everyday work related to conducting these types of investigations. In addition, I am the Crimes Against Children (CAC) coordinator for the FBI's Albany Division, Syracuse Resident Agency and a National Center for the Analysis of Violent Crime (NCAVC) coordinator. I am also an attorney licensed to practice law in the state of New York and an FBI legal advisor.

2. I make this affidavit in support of a criminal complaint and arrest warrant charging EFRAIN J. ROSA with three counts of production of child pornography in violation of Title 18 United States Code, Section 2251(a).

3. The statements contained in this affidavit are based upon my investigation, information provided by other FBI agents, Oswego County Sheriff's Office Investigators, other personnel specially trained in the seizure and analysis of computers and electronic media, and on my experience and training as a Special Agent of the FBI. As this affidavit is being submitted for the limited purpose of securing a criminal complaint and arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that EFRAIN J. ROSA violated Title 18, United States Code, Section 2251(a).

Details of the Investigation

4. On September 26, 2007, the mother of VICTIM #5 (hereinafter V-5)¹ gave a statement to Deputy John Burke, Oswego County Sheriff's Office. In her statement, she reported that her 10 year old son (V-5) disclosed to her that ROSA had taken naked photographs of V-5 and had also engaged in anal sex with him. Deputy Burke subsequently interviewed V-5. V-5 told Deputy Burke that ROSA had taken naked pictures of the victim and other children and he put the pictures on his home computer. V-5 reported that ROSA engaged in anal sex with him on several different occasions, with the most recent occasion being September 26, 2007.

5. On September 27, 2007, ROSA was arrested by the Oswego County Sheriff's Office

¹ The investigation into the activities of defendant ROSA has, to date, revealed five separate victims of sexual abuse. The defendant's statement about those five victims is attached as a part of this affidavit. Each victim's name has been redacted from that statement, and designated as V-1 through V-5, corresponding to the order in which they are referred to in the written statement. Accordingly, the victims will be referred to in this affidavit with the same designation as given in the redacted statement of the defendant. In addition, in ROSA'S written statement he refers to several other individuals by name. The names of these individuals have also been redacted, and designated as

on New York State charges relative to ROSA'S sexual abuse of two of the victims. Pursuant to his arrest, ROSA gave a written statement to Oswego County Sheriff's Office Investigator Randall Pitcher, detailing his sexual abuse of several victims, V-1 through V-5. ROSA also admitted that he photographed some of the abuse, and that he uploaded photographs of the abuse to his computer. A redacted copy of ROSA'S statement is attached hereto and incorporated by reference as if fully set forth herein.

6. ROSA'S residence was searched, pursuant to a warrant, by the Oswego County Sheriff's Office on September 27, 2007. Among the evidence discovered in that search were a Concord Digital camera, which bears a label stating that it was made in China, and a Compaq EVO computer.

7. Oswego County Sheriff's Office Investigator Bryan Blake has done a preliminary forensic analysis of the computer, and located three file folders on ROSA's Compaq EVO computer in the following location: "Winnt\system32\new folder\folder\". Each of the three folders found in the above-described location on the computer was labeled with the first name of V-5, V-2, and V-3.

8. The file with V-5's name contains nineteen images, including the following:

- (1) IMG00384: This is a non-pornographic image that depicts ROSA without a shirt on standing next to V-5 without his shirt on as well. Both ROSA'S and V-5's faces are clearly visible in the image. Deputy Burke personally interviewed V-5 and has confirmed that V-5 is the same child depicted in this image.
- (2) IMG00007: This image depicts a young, naked male lying on his back using his

"others": O-1 through O-4.

hands to display his genitals and anus, the child's face is visible in the image. He is V-5.

(3) IMG00382: This image depicts a young, naked male lying on his back with his genitals exposed. A portion of the hand of an adult male can be seen on the child's right thigh. Although the child's face is not visible, given the location where the image was found in ROSA'S directory, it is believed to be an image of V-5.

9. V-5 is ten years old.

10. The file labeled with V-2's name contains fifteen (15) images, including the following:

(1) IMG00119.JPG: This image depicts a young, naked male child with an adult male's penis in his mouth. The child's face is clearly visible in the image. Investigator Pitcher personally interviewed V-2 and confirms that the child depicted in the image is V-2.

(2) IMG00077.JPG: This image depicts a young, naked male child lying on a bed with his legs spread apart with his genitals exposed. Again, the child's face is clearly visible in the image, and Investigator Pitcher confirms that he is V-2.

11. V-2 is eight years old.

12. The file labeled with V-3's name contains thirteen (13) images, including the following:

(1) IMG00011.JPG: This image depicts a very young, naked male child lying on a bed and

sleeping with his arms next to his head. His legs are spread apart and his genitals are exposed. The child's face is clearly visible in the image. This image was shown to V-3's mother by Inv. Pitcher and she identified the child in the photo as her 4 ½ year old son.

(2) IMG00019.JPG: This image depicts a very young, naked male child with his genitals exposed and a naked adult male with his penis between the legs of the child. Although the child's face is not visible in the image, as the image was found in the folder labeled with V-3's name, and as the image is consistent with the statement given by ROSA to Investigator Pitcher in which ROSA stated that he "ended up putting [his] penis between [V-'3s] legs and taking a picture," it is believed that this is an image of V-3.

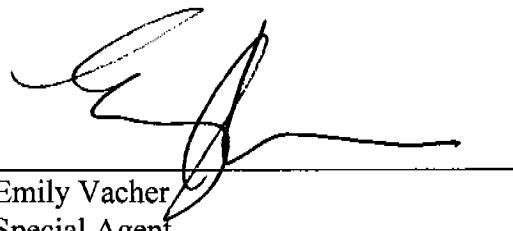
13. All of the images contained in the three folders, including those described above are available for the Court's inspection upon request.

14. As a part of his forensic analysis, Investigator Blake was able to access the EXIF data² contained in the image entitled, "IMG00068.JPG." This image depicts V-2 lying naked on his back on a bed. The EXIF data indicates that the digital camera used to create this image was made by Concord Camera Corporation. The digital camera removed pursuant to the search warrant at ROSA's residence was a Concord Digital camera.

² Digital cameras save JPEG (.jpg) files with EXIF (Exchangeable Image File) data. Camera settings and scene information are recorded by the camera into the image file. Examples of stored information are shutter speed, date and time, focal length, exposure compensation, metering pattern and if a flash was used.

Conclusion

15. Based upon the above information, I believe that probable cause exists that EFRAIN J. ROSA has violated Title 18, United States Code, Section 2251(a), which prohibits any person to employ, uses, persuade, induce, entice, or coerce any minor to engage in any sexually explicit conduct for the purpose of producing any visual depiction of such conduct ... if ... that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means.



Emily Vacher
Special Agent
Federal Bureau of Investigation

Sworn to me this 4th
day of October, 2007.



Hon. David E. Peebles
United States Magistrate Judge

STATEMENT

STATE OF NEW YORK
COUNTY OF OSWEGO

City of Oswego

Thursday September 27, 2007
Date and time of statement 1030 AM

Present at time of statement

Efrain J Rosa now give this statement to
Ritcher of the Oswego Sheriff's

I am 37 years of age, born on the 15 day of March 1970

I live at

When I was six or seven years old I was molested by a man in Liverpool. He became a Syracuse cop later. When he molested me he was in his late teen or early twenty. I told my parents after it happened and they reported it to the Clay PD. They treated it like it was a joke and did nothing about it. Later the man threatened me and my family. I dealt with this by drinking alcohol and doing drugs. I started doing this a few years later. The abuse and other stress even made me run away from home once. I even huffed butane to deal with my problems. Because of the abuse, molestation, I had suffered, I had urges to spend time with and have sex with other boys like 0-1

I have read the above statement, consisting of 10 pages, and it was read to me by

myself

I understand the statement and swear it is true.

Subscribed and sworn to before me this

27 day of September 2007

Signature

Comm. of Deeds

Notary Public

Witness

INVESTIGATOR OSWEGO SHERIFF'S

Verification of this Deposition is made pursuant to Section 100.30 (d), of the Criminal Procedure Law and I know that a false statement herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

Affirmed under penalty of perjury this 27
day of September 2007

Signature

Signature

STATEMENT

STATE OF NEW YORK
COUNTY OF OSWEGO

City of Oswego }

Thursday September 27, 2007
Date and time of statement 10:30 A.

Present at time of statement

Efrain J Rosa
 R. Pitcher of the Oswego Sheriff
 I am 37 March 1970
 I live at Fulton, NY 13062

did with me. I fought the impulses I had until sometime in the 1980's. Back then I lived with my girlfriend, O-2, and her two boys. We lived together for less than a month. I left when O-2 chased me out with a ball bat. She had come home, unexpectedly, and found me in a bedroom with her twelve year old son, V-1. We were both undressed and were about to get in bed. That's when O-2 chased me. She told me she would call the police if I ever went back. I did not and do not believe she called the police. I lived in Endfield, NY with O-2 when this all happened. I

I have read the above statement, consisting of 10 pages, and it was read to me by

myself

I understand the statement and swear it is true:

E. Rosa
SignatureRosa, Rosa
Witness

Subscribed and sworn to before me this

27 day of September 2007

Comm. of Deeds

Notary Public

INVESTIGATOR OSWEGO SHERIFF'S

Verification of this Deposition is made pursuant to Section 100.30 (d), of the Criminal Procedure Law and I know that a false statement herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

Affirmed under penalty of perjury this 27
day of September 2007E. Rosa
Signature

STATEMENT

STATE OF NEW YORK
COUNTY OF OSWEGO

City of Oswego

Thursday September 27, 2007
Date and time of statement
1030 AM

Present at time of statement

Efrain J Rosa
 R Pitcher of the Oswego Sheriff's
 I am 37 years of age now on the 15 day of March 2007
 I live at Fulton, NY 13069

now give this statement to
 then returned to the Liverpool, NY
 area. I was able to beat any
 urges or impulses I had for boys.
 I was able to do this until

0-3 reported that his
 mother's husband had abused, molested,
 him. 0-3 lives with me and did
 at the time he reported the abuse.
 He is the son of my ex-girlfriend
 who I also have a daughter with
 my daughter. 0-4 Also lives
 with me. 0-3 reported the abuse

about 3 years ago and this caused
 me to do some internet research
 on the topic of molestation. My
 research included downloaded picture
 of sexual images. The images includ

I have read the above statement, consisting of 10 pages, and it was read to me by
Myself
 I understand the statement and swear it is true.

Subscribed and sworn to before me this

27 day of September 2007

Com. of Deeds

Notary Public

Signature

Witness

INVESTIGATOR OSWEGO SHERIFF'S

Verification of this Deposition is made pursuant to Section 100.30 (d), of the Criminal Procedure Law and I know that a false statement herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

Affirmed under penalty of perjury this

27 day of September 2007

Signature

STATEMENT

STATE OF NEW YORK
COUNTY OF OSWEGO

City of Oswego

Thursday September 27, 2007
Date and time of statement

Present at time of statement

Efrain J Rosa now give this statement to
R. Pitcher of the Oswego Sheriff's Office
 I am 37 years of age born on the 15 day of March 1970
 NY 13069

adults having sex with adults, adults having sex with children, boys and girls and children having sex with children. After seeing these images during my research I found myself acting out. I it was about February of 2007 when 0-3 friend V-2 I do not know his last name, come to my apartment in Granby. I ended up fondling V-2 who was about 9 years old. We were in my bedroom. I took pictures V-2 laying nude on my bed. I don't remember all the details of what I did. I may have touched his penis but I do not remember.

I have read the above statement, consisting of 10 pages, and it was read to me by

myself

I understand the statement and swear it is true.

EJ R

Raul Pena

Subscribed and sworn to before me this

27 day of September 2007

Notary Public

Notary Public

Witness

INVESTIGATOR OSWEGO SHERIFF

Verification of this Deposition is made pursuant to Section 100.30 (d), of the Criminal Procedure Law and I know that a false statement herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

Affirmed under penalty of perjury this

27 day of September 2007

Signature

EJ R

STATEMENT

STATE OF NEW YORK
COUNTY OF OSWEGOCity of OswegoThursday September 27, 2001
Date and time of statement 10:30 AM

Present at time of statement

Efrain J Rosa now give this statement to
R Pitcher of the Oswego Sheriff's
 I am 21 years of age known on the 15 day of March 1970
 I live at 1, NY 13049

I realized what I had done and have him put his clothes back on and sent him away. I knew what I had done was wrong and regretted it. I just pounded my head into the wall. Later that day I talked with V-2's mother. I do not recall her name. I told her that she should not allow V-2 over to my apartment if he was not going to be playing with O-3. I did not tell her why. It was because I feared I might molest V-2 and did not want to. I think V-2 lived at apartment. I did not do anything like this again until sometime in April or May.

I have read the above statement, consisting of 10 pages, and it was read to me by

myself

I understand the statement and swear it is true.

EJR

Signature

Paul Piner

Witness

Subscribed and sworn to before me this

27 day of September 2001

Comm. of Deeds

Notary Public

INVESTIGATOR OSWEGO SHERIFF'S

Verification of this Deposition is made pursuant to Section 100.30 (d), of the Criminal Procedure Law and I know that a false statement herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

Affirmed under penalty of perjury this 27
day of September 2001

EJR

Signature

STATEMENT

STATE OF NEW YORK
COUNTY OF OSWEGOThursday September 27, 2007
Date and time of statement
(030 AM)

City of Oswego

Present at time of statement

Efrain J Rosa
 R Pitcher of the Oswego Sheriff's
 I am 37 years of age, born on the 15 day of March 1970
 now give this statement to
 on NY 13069

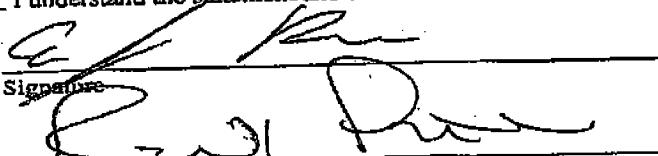
I live at

or June of 2007. That's when
 a girl from Fulton I know as
 O-4 called me. She wanted
 me to babysit her son V-3 for
 her. I agreed. V-3 was about
 4 years old. O-4 left him at
 my apartment for a couple days.
 On the second night there I had
 V-3 stay in my bedroom. He crawled
 into my bed. I comforted him by
 placing my arm around him. He was
 scared of the dark or something
 while he slept. I ended up putting
 my penis between his legs and
 taking a picture. V-3 was nude
 at the time. Nothing else happened.

I have read the above statement, consisting of 10 pages, and it was read to me by

myself

I understand the statement and swear it is true.



Subscribed and sworn to before me this

27 day of September 2007

Comm. of Deeds

Notary Public

Witness

INVESTIGATOR OSWEGO SHERIFF

Verification of this Deposition is made pursuant to Section 100.30 (d), of the Criminal Procedure Law and I know that a false statement herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

Affirmed under penalty of perjury this 27
 day of September 2007



STATEMENT

STATE OF NEW YORK
COUNTY OF OSWEGO

City of Oswego

Thursday September 27, 2007
Date and time of statement 10:30 AM

Present at time of statement

Efrain J. Rosa
R. Pitcher of the Oswego Sheriff's

I am 37 years of age, born on the 15 day of March 1970

I live at

Horn NY 13069

I brought him down stairs and put him on the couch. I did this to get him swax so that I would not do any thing to him. I did not do any thing like this again until about a week or week and a half ago. That's when O-3 friend V-4 came to my apartment. V-4 was on the bed in my bedroom. I began rubbing his penis area over his clothes. He unbuttoned his pants and I pulled them down. He wore no under wear. I then sucked on his penis in my mouth. He freaked out and told me to stop and I did. I was asking

I have read the above statement, consisting of 10 pages, and it was read to me by myself

I understand the statement and swear it is true.

Subscribed and sworn to before me this

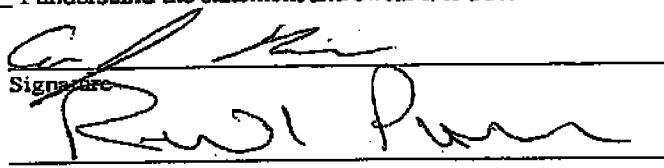
27 day of September 2007
Rudi Purr

Comm. of Deeds

Notary Public

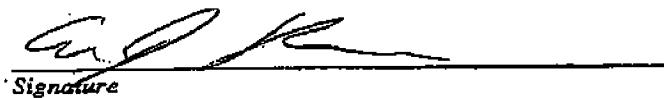
Witness

INVESTIGATOR OSWEGO SHERIFF'S



Verification of this Deposition is made pursuant to Section 100.30 (d), of the Criminal Procedure Law and I know that a false statement herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

Affirmed under penalty of perjury this 27
day of September 2007



STATEMENT

STATE OF NEW YORK
COUNTY OF OSWEGO

City of Oswego

Thursday September 27, 2007
Date and time of statement 1030 AM

Present at time of statement

Efrain J Rosa

now give this statement to

R Fletcher of the Oswego Sheriff's

I am 37 years of age, born on the 15 day of March 1970
Fulton NY 13069

I live

myself what I was doing. V-4 is 11 years old. I told him to leave and he did. I did not take any pictures of me and V-4. Later V-5, another friend of 0-3, came over. It was the next day, after V-4, V-5 is ten. He came over to use the playstation and noticed me looking at some porn on my laptop. He saw an image of a man having anal sex with a woman. He said some 0-4 guy from a foster home had done that to him before and he wanted to do it again. We were on the bed in my bedroom. We both undressed and

I have read the above statement, consisting of 10 pages, and it was read to me by

myself

I understand the statement and swear it is true.

EJK

Signature

Rwl P

Witness

Subscribed and sworn to before me this

27 day of September 2007

Comm. of Deeds

Notary Public

INVESTIGATOR OSWEGO SHERIFF'S

Verification of this Deposition is made pursuant to Section 100.30 (d), of the Criminal Procedure Law and I know that a false statement herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

Affirmed under penalty of perjury this 27
day of September 2007

EJK

Signature

STATEMENT

STATE OF NEW YORK
COUNTY OF OSWEGO

City of Oswego }

Thursday September 27, 2007
Date and time of statement

1030 AM

Present at time of statement

Efrain J Rosa now give this statement to
 R Pitcher of the Oswego Sheriff's

I am 32 years of age, born on the 15 day of March in 1970
 I live at Iton, NY 13069

he told me to put ~~this~~ my penis between his butt cheeks. He pulled his butt cheeks apart and said try putting it here. I then put my penis into his anus. I pulled it back out and told him to get dressed and go. he did. I ejaculate after he left. V-5 lives at apartment

I did photograph V-5 in the nude while he was at the apartment. I had the same bad feeling after I did this with V-5 and had him leave to avoid further temptation. I told all the boys not to tell ~~them~~ any one what happened. I did not threaten

I have read the above statement, consisting of 10 pages, and it was read to me by

myself

I understand the statement and swear it is true.

Subscribed and sworn to before me this

27 day of September 2007

Rewl Pusey

Comm. of Deeds

Notary Public

Signature

Witness

INVESTIGATOR OSWEGO SHERIFF'S

Verification of this Deposition is made pursuant to Section 100.30 (d), of the Criminal Procedure Law and I know that a false statement herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

Affirmed under penalty of perjury this 27 day of September 2007

Signature

STATEMENT

STATE OF NEW YORK
COUNTY OF OSWEGO

City of Oswego

Thursday September 27, 2007
Date and time of statement 10:30 AM

Present at time of statement

I, Efrain J. Rosa, now give this statement to
R. Pitcher of the Oswego Sheriff's
I am 37 years of age, born on the 15 day of March 1970
I live at Fulton, NY 13069

them. I took the photos I took off the camera and put them in my computer. I did not share them with anyone. I believe that is how people got caught. I also did not want any one else to know about my problem. I wish to get all the help possible to keep this from continuing.

A

myselfI have read the above statement, consisting of 10 pages, and it was read to me by

I understand the statement and swear it is true.

CPR

Signature

Rufi Pena

Subscribed and sworn to before me this

22 day of September 2007Rufi Pena

Comm. of Deeds

Notary Public

Witness

INVESTIGATOR OSWEGO SHERIFF'S

Verification of this Deposition is made pursuant to Section 100.30 (d), of the Criminal Procedure Law and I know that a false statement herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law of the State of New York.

Affirmed under penalty of perjury this 27
day of September 2007

EJR
Signature

1208 PM